

REMARKS

In the Advisory Action dated February 9, 2010, the Examiner states that Applicant's amendments (in response to the Final Office Action dated November 24, 2009) materially change the scope of the claims. The Examiner then asserts that Applicant's claims appear "too broad in view of the prior art of record" and that "the 'transferring' step still appears elusive." Applicant respectfully disagrees with these assertions. However, in order to expedite prosecution, Applicant presented amendments (in a Reply dated February 16, 2010) to clarify the claims and the distinctions over the cited art.

In the Office communication dated April 15, 2010, the Examiner acknowledges receipt of Applicant's RCE and fee submitted on February 16, 2010 but asserts that, though Applicant made a "*bona fide* attempt to provide a complete reply," the submission is not fully responsive because the amendments did not include markings showing changes relative to the last entered amendments. The above amendments show markings relative to the last entered amendments. In other words, the amendments above show markings combining the amendments after final submitted on 1/25/2010 and the amendments submitted with the filing of the RCE on 2/16/2010. Furthermore, below are new remarks responsive to the potential new matter concerns expressed by the Examiner in the Office Communication of April 15, 2010, and then repeat the remarks submitted with the filing of the RCE.

Potential New Matter – 35 U.S.C. § 112 – 1st Paragraph

In the Office Communication of April 15, 2010, the Examiner makes of record new concerns regarding potential new matter.

The Examiner questions support for "determining ... in response to said savings amount being transferred, a plurality of penalties." As indicated by the Examiner, Applicant's original disclosure provides support for both automatic and partial automatic mode. Applicant asserts that the original disclosure clearly indicates that the invention encourages and enables a user to save first and then perform other tasks related to paying debts. For example,

The present invention encourages users to **not only pay themselves first, but to pay themselves first in the largest amounts possible, even if they are not able to fully pay outstanding debts.** Para. 0006, emphasis added.

The invention also allocates and transfers a portion of the user income to other accounts (e.g., payee bills or debts) based upon other hierarchies and rules, wherein **the host 5 may transfer a portion of the user income from user account 20 to a user savings account 23 ("pay yourself") first before paying all or a certain portion of the user debts.** Para. 0012, emphasis added.

Because many individuals often think of saving money based on how much they will have after paying bills, the invention attempts to overcome this attitude, in an exemplary embodiment, **by prompting the user for the user goal information before entering user debt information, so that the user is aggressive in the effort to pay himself first.** Para. 0046, emphasis added.

In another embodiment, the debt analyzer 15 may recommend that the user pay himself first, but only after funds become available in user account 20. In another embodiment, the system, on a certain date and/or upon a certain level of user income being transferred to user account 20, automatically transfers a payment from user account 20 to the user savings account 23. The system may also allow the user to set his own payment criteria (in addition to pre-established options) or override the order in which debt analyzer recommends that certain bills are to be paid. Para. 0051.

The system may also not only pay (or encourage the user to pay) the user first (or in a priority position), but the system may transfer funds to the user savings account 23 first in the largest amounts possible. Para. 0055.

Based at least upon the above disclosure, Applicant's assert that there is ample original support for the claimed limitation.

The Examiner questions support for "determining ... in response to said determining said plurality of penalties, a payment hierarchy to minimize said plurality of penalties." Below are passages from the original disclosure,

The **debt information may include**, for example, payee account numbers, payee names, bill due dates, minimum payment information, **penalty information**, interest information, credit rating information, payee rules and restrictions, and/or the like. Debt analyzer 15 may include any hardware and/or software suitably configured to **facilitate analysis of the debt information** and/or to determine a suggested hierarchy of debts. The debt analyzer 15 **may obtain information from a personal financial or accounting system in order to provide additional**

recommendations which conform at least partially to the suggestions or restrictions of the financial or accounting software. Para. 0018, emphasis added.

In addition to savings suggestions, the system may provide **the user with recommendations for prioritizing payment of bills** so that the user may determine when and how much to pay himself. For example, the system may recommend prioritizing bills to be paid in the following order from highest priority to lowest priority: (i) Bills that are for essentials (e.g., food, transportation to work and school, necessary job-related expenditures, necessary education-related expenditures); (ii) Bills that affect credit rating the most; (iii) **Bills that have high penalties for late payments**; and, (iv) Bills that are for non-essentials ... For example, if a user has an income of \$500.00, and the user wants to save \$400.00, but the user has a credit card bill with a minimum due of \$50.00 and a total balance of \$500.00, the program may recommend that the user submits a payment that allows the user to meet his user goal, while avoiding a large penalty (e.g., do not pay less than the minimum due, but not any larger amount). Para. 0049, emphasis added.

In the above cited para. 0018, the original disclosure shows that penalty information is among the debt information gathered and stored in the system and that debt analyzer is configured to analyze the debt information (including the penalty information). Thus, for at least these reasons, Applicant submits that the original disclosure supports determining penalties.

The Examiner questions support for determining a payment hierarchy to minimize penalties. Below are passages from the original disclosure,

The debt information may include, for example, payee account numbers, payee names, bill due dates, minimum payment information, **penalty information**, interest information, credit rating information, payee rules and restrictions, and/or the like. Debt analyzer 15 may include any hardware and/or software suitably configured to facilitate analysis of the debt information and/or to determine a suggested hierarchy of debts. Para. 0018, emphasis added.

The recommendation phase (step 205) may include, in one embodiment, **debt analyzer 15 of system 1 reviewing the user debt information in debt database 10 to provide recommendations related to the prioritization or hierarchy for**

paying certain bills, the amount to pay for each bill and the user goal... Para. 0048, emphasis added.

Using the example hierarchy above, one user may choose to transfer funds to user savings account 23 after paying bills that affect credit rating, **but before bills with high penalties for late payment**. Para. 0054, emphasis added.

In the above cited passages, original disclosure shows that penalty information is among the debt information gathered and stored in the system and that debt analyzer is configured to analyze the debt information (including the penalty information). The debt analyzer also provides recommendations related to prioritization or hierarchy for paying certain bills and such prioritization can be based upon minimizing penalties. Thus, for at least these reasons, Applicant submits that the original disclosure supports determining a payment hierarchy that minimizes penalties.

The transferring step

Applicant amends independent claims 1 and 16-17 to positively recite “savings amount is transferred to said user savings account” and “determining, in response to said savings amount being transferred, a plurality of penalties . . .”

Based upon

Applicant amends independent claims 1 and 16-17 to recite that, to minimize penalties, the payment hierarchy is created as a function of at least three inputs, i) the “savings amount,” ii) the “plurality of penalties” and iii) at least one of a list of three other inputs. Applicant submits that these claims apprise one of skill in the art of what Applicant’s invention is; especially when the claims are read in light of the originally filed specification.

Prioritize savings first

Applicant amends independent claims 1 and 16-17 to recite the savings amount being transferred first and then performing the analysis to determine the payment hierarchy that minimizes penalties. In particular, “wherein said savings amount is transferred to said user savings account; determining, . . . **in response to said savings amount being transferred**, a plurality of penalties by analyzing, . . .” (Claim 1, emphasis added). Thus, in the present claims,

the first step in determining the payment hierarchy that minimizes penalties **only occurs if the** savings amount is transferred.

Chevreau

In the Final Office Action of 11/24/2009, the Examiner rejected the independent claims under 35 U.S.C. § 103(a), as being unpatentable over VanLeeuwen, U.S. Pub. No. 2002/0123949 (“VanLeeuwen”) in view of non-patent literature document entitled “Pay Yourself First Still Works” by Jonathan Chevreau (“Chevreau”) in view of Saylors et al, U.S. Pub. No. 2004/0111370 (“Saylors”) and further in view of Davis, U.S. Pub. No. 2004/0193491 (“Davis”). Applicant acknowledges that in Chevreau, the author summarizes the book, *The Richest Man in Babylon* by George S. Clason, as stating “[n]o matter how little gold one earned, Akrad preached the necessity of ‘paying yourself first’ by setting aside at least one in every 10 gold pieces earned.” (Chevreau, Abstract). In Chevreau, the author also submits that the central recommendation of the book *Smart Couples Finish Rich* by David Bach is, “pay-yourself-first at least 10%.” (Chevreau, Abstract). Applicant asserts that such a statement means that one should make savings the first and highest priority. Applicant submits that Applicant is not attempting to claim the simple philosophy of saving money. Rather, as recited in independent claim 1 (emphasis added) and as similarly recited in independent claims 16-17, Applicant presents specific systems and methods for prioritizing savings and minimizing penalties associated with outstanding debts:

**determining ...a savings amount for transferring
...wherein said savings amount is transferred;**
**determining, by said computer-based system and in
response to said savings amount being transferred, a plurality
of penalties ...**

**determining ... in response to said determining said
plurality of penalties, a payment hierarchy to minimize said
plurality of penalties, said payment hierarchy being a function of
said savings amount, said plurality of penalties and ...**

Thus, as stated in the Reply to the Final Office Action, none of the other cited references (including Chevreau) cure the deficiencies of VanLeeuwen, Lahre and Hilton.

VanLeeuwen discloses a method for “analyzing a user’s finances and providing a plan for debt reduction” (Abstract). The VanLeeuwen method includes acquiring financial data, classifying financial transactions into budget categories, adjusting budgets, listing expense reducing items to a user, receiving user input regarding which expense reducing items to accept. VanLeeuwen discloses determining a budget margin based upon the accepted expense reducing items and paying down user’s debts with the budget margin (Paras. 0008-0009).

Significantly, VanLeeuwen fails to disclose making a payment to savings regardless of debt obligations. Instead, VanLeeuwen is directed toward “determining a financial debt that should be paid down first to reduce aggregate financial debt” and “allow[ing] the plurality of debts to be paid off in a reduced amount of time” (Para. 0010). In fact, **VanLeeuwen’s focus on debt prioritization teaches away from prioritizing savings first.** For instance, VanLeeuwen’s discloses, “[i]n contrast to the prior art, this system uses an effective method to select the order in which debts should be paid off” (Para. 0041) and “debt reduction logic considers the original principal amount, term length of debt, and finally the interest rate on the debt. These factors are combined and preferably measured against the baseline amount of principal owing and allows the appropriate debt to be selected and paid off first” (Para. 0043, emphasis added, internal references removed).

Lahre discloses “a method and system for obtaining customer financial data and producing purchase recommendations which maximize the customer’s cash inventory...” (Abstract). The method also enables the customer to receive reports, including recommendations regarding the purchase recommendations, “without having to do any data manipulation, programming, or calculations.” (Abstract). Additionally, Lahre discloses performing mathematical operations to maximize, or minimize, defined objective functions; e.g. to maximize cash flow.

Significantly, while Lahre discloses maximizing cash flow in order to have funds necessary for a variety of other business objectives, Lahre **fails to disclose making a payment to savings prior to performing the optimization method to maximize cash flow.** Instead, the Lahre method simply optimizes in order to maximize the cash flow available for the business. As such, Lahre merely teaches automating known optimization methods and facilitating efficient distribution of the results to decision makers.

Like Lahre, Hilton focuses on optimizing cash flow or “cash on hand.” Hilton discloses a system that implements a genetic algorithm to “determine a plan for payment of payment obligations in accounts payable.” (Abstract). Hilton discloses considering the timing and amount of payments made to various accounts payable accounts in light of other objectives such as daily cash on hand, tax impacts, late payment penalties, postage fees. (Para. 0007).

Significantly, while Hilton discloses maximizing cash flow in order to have funds necessary for a variety of other business objectives, Hilton **fails to disclose making a payment to savings prior to performing the optimization method to maximize cash flow**. Instead, the Hilton method simply optimizes in order to maximize the cash on hand. As such, Hilton merely applies a known optimization heuristic (genetic algorithm) to the problem of maximizing cash on hand.

Applicant therefore respectfully submits that independent claims 1 and 16-17 are allowable over the cited references. Dependent claims 2-4, 6-7, 9, and 11-13 depend from independent claim 1, so dependent claims 2-4, 6-7, 9, and 11-13 are allowable over the cited references for the reasons set forth above, in addition to their own unique features.

Conclusion

In view of the above remarks, Applicant respectfully submits that all pending claims are allowable over the cited references. Reconsideration of the application is respectfully requested. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814, including any required extension fees.

This statement does not authorize charge of the Issue Fee.

Respectfully submitted,

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